

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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Application of Trans Bay Cable LLC
(U934-E) for Order Exempting Securities Issuance
Transactions from Commission Authorization
Pursuant to Public Utilities Code Sections 829 and
853.

Application No. A16-03-011
(Filed March 22, 2016)

**TRANS BAY CABLE LLC'S COMMENTS TO THE PROPOSED
DECISION GRANTING EXEMPTION FROM PUBLIC UTILITIES
CODE SECTIONS RELATING TO SECURITIES TRANSACTIONS**

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August 2, 2016

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Pursuant to Rule 14.6 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure (“Rules”), Trans Bay Cable LLC (“TBC”) respectfully submits these comments on the Proposed Decision Granting Exemption from Public Utilities Code Sections Relating to Securities Transactions which was issued in the above captioned proceeding on July 19, 2016 (the “Proposed Decision”).

INTRODUCTION

The Proposed Decision would authorize, subject to certain conditions, the exemption of TBC from compliance with Sections 816 through 830 and 851 of the California Public Utilities Code (“PU Code”). The Proposed Decision outlines five (5) conditions which limit the availability of the exemptions: (1) the exemptions may be revoked, limited, or conditioned by the Commission at any time (hereinafter “Condition One”); (2) the exemptions will be revoked if the TBC is cited for a safety violation or the Commission opens an Order Instituting Investigation

for a safety violation (hereinafter “Condition Two”); (3) if TBC anticipates requesting more than a 20% rate increase from the Federal Energy Regulatory Commission as a result of a securities transactions the exemptions are no longer available; (4) if a securities transaction will result in a functional or actual change of ownership or control of Trans Bay Cable or its facilities, the exemptions do not apply; and (5) the exemptions do not apply to Section 854 of the PU Code. TBC supports the Proposed Decision but respectfully offers limited comments on Conditions One and Two, identified above, as articulated below.

II. THE PROPOSED DECISION SHOULD BE AMENDED TO CLARIFY THAT ANY REVOCATION WOULD BE APPLICABLE ONLY TO SECURITIES TRANSACTIONS OCCURRING AFTER ANY REVOCATION OF THE ORDER

It appears that the intent of Condition One of the Proposed Decision is that any revocation of the Order would be prospective only and is not intended to apply to securities transactions that TBC had entered into or committed to prior to the time of such revocation. However, investors and lenders are generally averse to uncertainty and ambiguity; clarifying the applicability of the exemption is in the interest of ratepayers and will support the most efficient and lowest cost access by TBC to sources of financing capital. Accordingly, TBC respectfully suggests the following proposed amendments to Condition One to make it clear that any revocation of the Order would not be applicable to any securities transaction that TBC had entered into or committed to prior to such revocation of the exemptions:

The exemptions granted to Trans Bay Cable, LLC by this decision may be revoked, limited, or conditioned by the Commission at any time pursuant to Public Utilities Code § 1708, provided however such exemptions shall remain in effect for security transactions that have been committed to or executed prior to the date of such revocation, limitation or condition.

III. REVOCATION OF EXEMPTIONS FOR A SAFETY VIOLATION SHOULD BE LIMITED TO A NON-APPEALABLE SAFETY VIOLATION AND BE APPLICABLE ONLY TO SECURITIES TRANSACTIONS AFTER THE DATE OF SUCH REVOCATION

With respect to Condition Two, TBC notes that Condition One explicitly reserves to the Commission ample authority to revoke, limit, or condition the exemptions granted by the Order for any reason, which, of course, would include any action regarding future safety issues, and, thus, Condition Two seems unnecessary.

Assuming the Commission wishes to retain Condition Two, TBC requests that the triggering event under Condition Two should be a non-appealable Commission order finding that a safety violation by TBC has actually occurred. As currently phrased, Condition Two suggests that an automatic revocation of the exemptions would occur if TBC is simply cited for a safety violation or a safety investigation is ordered. Typically penalties are imposed upon a *finding of fault*. As currently written Condition Two arguably imposes a penalty of revocation of the exemption prior to any *finding of fault*. Accordingly TBC respectfully requests that Condition Two be amended to clarify that TBC would not be penalized by the loss of the exemptions granted by the Decision until the Commission has fully determined that TBC has committed a safety violation.

In addition, as noted above in the discussion regarding Condition One, it is important to clarify that any revocation occurring under Condition Two would be prospective only and would not apply to any securities transaction entered into or committed to by TBC prior to the time of any such revocation.

To implement the requested changes to Condition Two described above, TBC offers the following proposed language as an alternative to the current limitation in the Proposed Decision.

if there is a non-appealable Commission order finding that Trans Bay Cable has

committed is cited by the Commission for a safety violation, or if the Commission opens an Order Instituting Investigation for a safety violation, the exemptions are no longer in effect, provided however such exemptions shall remain in effect for security transactions that have been committed to or executed prior to the date of such Commission order.

III. CONCLUSION

With the limited corrections set forth above, TBC respectfully request that the Commission expeditiously approve the Proposed Decision at the August 18, 2016 Commission meeting.

Respectfully submitted,

TRANS BAY CABLE LLC

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